

file

**BEFORE THE
STATE OF WISCONSIN
Division Of Hearings And Appeals**



Investigation on Motion of the Department of
Natural Resources of an Alleged Unlawful
Construction and Maintenance of a Pier,
Boatshelter, and Swimraft on the Bed of East Lake
of the Spread Eagle Chain, Town of Florence,
Florence County, Wisconsin by Paul Lundy

3-NE-97-0125 UG

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

On August 20, 1996, Pamela Witter and Robert Macaux filed a complaint with the Department of Natural Resources (Department) pursuant to sec. 30.14(2), Stats., alleging that Paul and Cathy Lundy are maintaining a pier, shorestation, and swim raft on the bed of East Lake, Florence County, Wisconsin, in violation of secs 30.12 and 30.13, Stats. In response to the complaint the Department's northern region staff conducted field investigations.

On October 22, 1997, the Department filed a motion alleging that the Lundys are maintaining a pier, shorestation and swimraft on the bed of East Lake, without permits in violation of secs. 30.12 and 30.13, Stats., and Ch. NR 326, Wis. Adm. Code, and that these structures, in their current location and configuration, interfere with the rights and interest of the public and other riparians in East Lake. The Department requested the Division of Hearings and Appeals to conduct a hearing in this matter.

Pursuant to due notice the Division of Hearings and Appeals conducted a hearing held in Florence, Wisconsin, on March 11 and 12, 1998, before Mark J. Kaiser, Administrative Law Judge. The parties filed post-hearing briefs. The last submittal was received on March 30, 1998.

In accordance with secs. 227.47 and 227.53(1)(c), Stats., the PARTIES to this proceeding are certified as follows:

Wisconsin Department of Natural Resources, by

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APPLICABLE LAW

Section 30.13(1), Stats., provides.

A riparian proprietor may construct a wharf or pier in a navigable waterway extending beyond the ordinary high-water mark or an established bulkhead line in aid of navigation without obtaining a permit under s. 30.12 if all of the following conditions are met:

- (a) The wharf or pier does not interfere with public rights in navigable waters.
- (b) The wharf or pier does not interfere with rights of other riparian proprietors.
- (c) The wharf or pier does not extend beyond any pierhead line which is established under sub. (3).
- (d) The wharf or pier does not violate any ordinances enacted under sub. (2).
- (e) The wharf or pier is constructed to allow the free movement of water underneath and in a manner which will not cause the formation of land upon the bed of the waterway.

Section 30.13(1m) provides:

A riparian proprietor may place a swimming raft in a navigable waterway for swimming and diving purposes without obtaining a permit under s. 30.12 if all of the following conditions are met:

- (a) The swimming raft does not interfere with public rights in navigable waters.
- (b) The swimming raft does not interfere with rights of other riparian proprietors.
- (c) The swimming raft is placed within 200 feet of shore.

Section 30.13(4)(a), provides:

A wharf or pier which interferes with public rights in navigable waters constitutes an unlawful obstruction of navigable waters unless a permit is issued for the wharf or pier under s. 30.12 or unless authorization for the wharf or pier is expressly provided.

Sections 30.12(1) and (2), Stats., provide in relevant part:

(1) GENERAL PROHIBITION. Except as provided under sub. (4), unless a permit has been granted by the department pursuant to statute or the legislature has otherwise authorized structures or deposits in navigable waters, it is unlawful:

(a) To deposit any material or to place any structure upon the bed of any navigable water where no bulkhead line has been established;

. . .

(2) PERMITS TO PLACE STRUCTURES OR DEPOSITS IN NAVIGABLE WATERS; GENERALLY. The department, upon application and after proceeding in accordance with s. 30.02 (3) and (4), may grant to any riparian owner a permit to build or maintain for the owner's use a structure otherwise prohibited under sub. (1), if the structure does not materially obstruct navigation . . . and is not detrimental to the public interest.

Sec. NR 326.04(1), Wis. Adm. Code, provides in relevant part:

Except as provided in sub. (2) or (8), piers shall not extend into the water from the shoreline beyond the line of navigation or the length of the boat using the pier unless a need can be demonstrated by the riparian that boats using the pier require a greater depth of water.

Sec. NR 326.05, Wis. Adm. Code, provides in relevant part:

Riparians intending to construct ... piers not conforming to s. 326.04(1) ... shall apply for permits under s. 30.12(2), Stats.

FINDINGS OF FACT

1. In 1977, Paul and Cathy Lundy (Lundys) purchased an undeveloped lot adjacent to the north shore of East Lake. The legal description of the lot is Government Lot 5 of Section 34, Township 40 North, Range 19 East, in the Town of Florence, Florence County, Wisconsin. The Lundys are riparian owners on East Lake.

2. East Lake is navigable at the site of the Lundy pier. East Lake is approximately 52.8 acres in size. Approximately half of the shoreline of East Lake is developed. East Lake is part of the Spread Eagle Chain of Lakes. The Spread Eagle Chain of Lakes is a group of connected lakes with a combined area of approximately 550 acres.

3. The Lundys built a pier on the bed of East Lake adjacent to their property. The pier was constructed in three stages. The first section was constructed during the winter of 1979; a second section was constructed during the winter of 1983; and a third section was constructed during the winter of 1993. The current pier is P-shaped. It is 38 feet long and nineteen feet wide at the landward end and 27 feet wide at the lakeward end. A shorestation is attached to the east side of the pier. The water depth at the lakeward end of the pier is approximately 42 inches. No pierhead line has been established for East Lake. The pier is located at the eastern edge of the Lundy property. No permit has been applied for or issued for the pier.

4. The pier allegedly extends into the riparian zone of the Lundys' neighbors, Robert Macaux and Pamela Witter. Whether the pier does extend into the riparian zone of Macaux/Witter cannot be determined until after the Circuit Court case resolves a property line dispute between the Lundys and Macaux/Witter.

5. The Lundy pier is located in an area with a diverse population of aquatic vegetation. The area directly beneath the Lundy pier is devoid of any aquatic vegetation due to the shading from the pier. The area beneath the pier was described by Tim Rasman, an aquatic biologist, for the Department as a "biological desert." The near shore area of a waterway provides important habitat for spawning and nursery activity by fish and aquatic invertebrate populations. The Lundys argue that the pier is used by fish for cover and that the shading by the pier increases the bio-diversity of the area. The fact that some fish use the pier for cover does not prove that the pier enhances the value of the area as fish habitat. The presence of aquatic plants is a primary reason that the near shore area is important habitat for fish and other wildlife. Aquatic plants are an important component of the aquatic ecosystem, both as a food source for fish, waterfowl, insects and other wildlife and for oxygenation of the water body (through photosynthesis). The decrease in the aquatic plant community as a result of shading from the pier negatively impacts the quality of this area for fish, waterfowl, and other wildlife.

6. The area in which the Lundy pier is located can not be used for other incidents of navigation, such as boating, swimming, and wading. No property owners on the Spread Eagle Chain of Lakes, other than Robert Macaux, complained that the size of the Lundy pier was excessive. However, the navigable waters of the state and the beds of navigable waters are owned by the State of Wisconsin in trust for the use of the public. "This 'public trust' duty requires the state not only to promote navigation but also to protect and preserve its waters for fishing, hunting, recreation, and scenic beauty." (citations omitted) Wis. Environmental Decade, Inc. v. DNR, 85 Wis.2d 518, at 526 271 N.W.2d 69 (1978). The Lundy pier appropriates an unreasonably large area of the public waterway for a private purpose. The size of the Lundy pier is detrimental to the public interest in East Lake.

The Lundys presented testimony that their pier covers only .04% of the area of East Lake and .00665734% of the area of the Spread Eagle Chain of Lakes. The purpose of this testimony was to support the Lundys' argument that any negative impacts resulting from the existence of the pier are insignificant. Although it is difficult to quantify the negative impacts resulting from the Lundy pier, it is this type of incrementalism that the Wisconsin Supreme Court addressed in Hixon v. PSC, 32 Wis. 2d 608, 146 N.W. 2d 577 (1966). In Hixon, the court required the

Department to consider cumulative impacts of intrusions into navigable waters. Although it is easy to say that the Lundy pier will have a de minimis impact, the impact of damaging this area of habitat, when considered cumulatively with other projects that negatively impact fish habitat occurring in East Lake and the Spread Eagle Chain of Lakes, adversely affects public interest and rights in East Lake.

7. The Wisconsin Supreme Court and Court of Appeals have repeatedly held that the enjoyment of natural scenic beauty is a public right. *e.g.* Muench v. Public Service Commission, 261 Wis. 492 (1951), Claflin v. DNR, 58 Wis.2d 182 (1972), Sterlingworth Condominium Assoc. v. DNR, 205 Wis.2d 702 (Ct. App 1996). In Claflin, the Wisconsin Supreme Court stated:

Specific structures may be determined to be detrimental to the public interest on the ground that they impair natural beauty. This is a proper basis for denial of a permit. The natural beauty of our northern lakes is one of the most precious heritages Wisconsin citizens enjoy. It is entirely proper that that natural beauty should be protected as against specific structures that may be found to mar that beauty.

58 Wis.2d 182, at 193.

Similarly, the Court of Appeals held:

[E]njoyment of scenic beauty is one of the paramount interests appurtenant to navigable waters. [citation omitted] That being so, the fact that "beauty" and "aesthetics" are concepts not susceptible to precise measurement, being subjective by nature, cannot be held to prevent the state from protecting those interests. [footnote omitted] They are indubitably proper factors to be considered in the determination of whether permits for a particular project should be granted. The citizens of Wisconsin have given the state the authority to protect the scenic beauty of public waters by means of the permit-granting process.

Village of Menomonee Falls v. DNR, 140 Wis.2d 579, at 607-08, 412 N.W.2d 505 (Ct.App. 1987).

Several property owners on the Spread Eagle Chain of Lakes testified at the hearing that the Lundy property is attractive and well maintained and enhances the property values of other properties on the chain. These opinions are supported by various photographic exhibits in the record. However, the attractiveness of the property is not what the courts have meant by "natural scenic beauty." Although neither Wisconsin statutes nor case law provides a definition of the phrase "natural scenic beauty," it is clear that the courts, when reviewing decisions on projects which allegedly adversely impact natural scenic beauty, have considered views of natural vegetation as having natural scenic beauty and views with manmade structures or components as

having less natural scenic beauty. For example, in its decision in the Village of Menomonee Falls, the Court stated:

The project will destroy the scenic beauty of Lilly Creek as it now exists in its natural state, substituting the sterile, barren look of a concrete or riprap channel for the aesthetic value of a meandering stream with pools and ripples, lined with natural vegetation.

140 Wis.2d 579, at 607-08, 412 N.W.2d 505 (Ct.App. 1987).

The shoreline in the area of the Lundy pier is already developed. In this context, scenic beauty does not necessarily mean natural, unaltered views from the lake. Rather, the concern is whether the proposed project will be visually intrusive. The Lundy pier is clearly visible when this section of shoreline is viewed from the water. Although piers are a common site on lakes, the size of the Lundy pier is excessive and more visually intrusive than most piers. The Lundy pier negatively impacts the public right to enjoy the natural scenic beauty of the shoreline of East Lake.

8. Because the Lundy pier interferes with public rights on East Lake and may also interfere with the rights of another riparian, the Lundy pier does not fall within the conditions set forth at sec. 30.13(1), Stats., under which a riparian may construct a pier without a permit. Accordingly, a permit is required for the maintenance of the pier. The pier also apparently extends somewhat beyond the line of navigation. Pursuant to sec. NR 326.05, Wis. Adm. Code., for this reason alone, a permit is required for the Lundy pier to be maintained. No permit has been applied for or issued for the pier, therefore, the pier exists in violation of secs. 30.12 and 30.13, Stats.

9. The shorestation attached to the pier is a violation of secs. 30.13 and 30.12, Stats., only if it is determined that it has been placed in the Macaux/Witter riparian zone. Once the appropriate line is established and a riparian zone can be determined, if the Lundys move the shorestation to comply with Ch. NR 326, Wis. Adm. Code, no permit will be required for the shorestation.

10. The Lundys have also placed and maintained a swim raft approximately seventy feet from the shoreline in front of their property. The swim raft is ten feet by twelve feet in size and has an approximately eight-foot slide attached to the top of it. The Department alleges that the swim raft is also located in the Macaux/Witter riparian zone. A riparian owner's riparian zone only extends to the line of navigation, *i.e.* to the three foot contour line. Nosek v. Stryker, 103 Wis.2d 633, at 640, 309 N.W.2d 868 (Ct.App. 1981). Therefore, the swim raft is not located within the Macaux/Witter riparian zone.¹

¹ The Department's Pier Planner (exh 5) states that a swim raft must be confined to a property owner's riparian zone. This requirement is more restrictive than the conditions set forth at sec. 30.13(1m), Stats., and is also apparently a misstatement since it would mean that on most lakes in order to place a swim raft without a permit the raft would have to be placed within the three foot contour line. Sec. 30.13(1m)(b), Stats., only requires that a swim raft be placed so as not to interfere with the rights of other riparian proprietors. Based on the evidence in the record, the Lundy swim raft does not interfere with the rights of other riparians.

Robert Rosenberger, a water regulation and zoning specialist for the Department, testified that the swim raft requires a permit because it has a slide attached to it. Mr. Rosenberger testified that the slide constitutes more than the minimum for a swim raft; therefore, the swim raft can not be maintained without a permit. The Department has cited no state statute, administrative rule, or Department policy that provides that a swim raft with a slide or additional structure such as a diving board requires a permit. The Department is arguing that the slide makes the swim raft more visually obtrusive. This is true; however, the impact on the natural scenic beauty resulting from the slide attached to the swim raft is insignificant. Arguably, any negative impact on natural scenic beauty resulting from the existence of the slide is outweighed by the fact that the slide makes the swim raft more visible to boaters and for this reason has a safety benefit. The Department failed to satisfy its burden of proof to show that the swim raft violates sec. 30.13, Stats.

11. On September 28, 1993, the Department and the Spread Eagle Lakes Association entered into a Pier and Dock Agreement. The purpose of the agreement was to establish a process for bringing "non-conforming piers or similar structures" on the Spread Eagle Chain of Lakes into compliance with chapter 30, Stats.' and Chapter 326, Wis. Adm. Code. "Non-conforming piers or similar structures" is defined in the agreement as "those piers or similar structures which are of such a size or configuration or are used in such a manner so as to interfere with public rights in navigable waters or interfere with the rights of other riparian owners within the meaning of sec. 30.13(1) and (4), Stats., and NR 326, Wis. Adm. Code, and which come within the permit requirements of sec. 30.12 Stats." The Lundy pier was one of the six to ten piers specifically identified as non-conforming piers referred to in the agreement.

The goal of the Department and the members of the Spread Eagle Lakes Association was to phase out the non-conforming piers and similar structures existing on the Spread Eagle Chain of Lakes over time with a minimum amount of disruption in the lifestyles of property owners on the chain and without the need for enforcement actions. The process for dealing with non-conforming piers and similar structures as set forth in the agreement commenced with a meeting between Department staff and the property owner. The meeting would eventually lead to the Department and property owner entering into a written stipulation setting forth an acceptable size to which the property owner would reduce the structure and a reasonable time period within which to accomplish the reduction.

12. Pursuant to the agreement, by letter dated November 28, 1994, Robert Rosenberger did contact the Lundys to set up a meeting. At the request of Mr. Lundy this meeting was cancelled. No further meetings were scheduled between the Lundys and the Department. Ultimately the Department abandoned any attempts to implement the procedure set forth in the agreement to bring the non-conforming structures into compliance. The Lundys argued that the time and expense of the hearing could have been avoided if the Department had followed the procedure set forth in the agreement. Mr. Rosenberger testified that it was his understanding that the Department abandoned the process because of political pressure applied on behalf of the Association.

To refute Mr. Rosenberger's testimony, the Lundys offered an affidavit from Representative Lorraine Seratti stating that "At no time was an agreement reached between [her]

and the Wisconsin Department of Natural Resources requiring that Wisconsin Department of Natural Resources not implement the SPREAD EAGLE LAKE AGREEMENT, including paragraph 2 and all sub-paragraphs." Representative Seratti's affidavit is uncontroverted that no agreement relative to the implementation of the Spread Eagle Lake Agreement was reached; however, Representative Seratti's statement is silent on the question of whether any political pressure was applied to the Department to force it not to implement the agreement.

Although it may be important for public relations purposes to determine why the Department failed to implement the procedure set forth in the agreement, this issue is immaterial for the instant matter. The enforcement action was commenced in response to a complaint from the neighboring riparians, Robert Macaux and Pamela Witter. Paragraph six of the agreement expressly states the Department "will respond to complaints concerning piers or similar structures received from other owners or members of the public using the Spread Eagle Chain of Lakes utilizing the procedures contained in sec. 30.14(2), Stats." That is precisely what occurred in this case.

DISCUSSION

The Department satisfied its burden of proof that the Lundy pier interferes with public rights in East Lake and; therefore, does not satisfy the conditions set forth at sec. 30.13(1), Stats., by which a pier may be maintained in a navigable waterway without a permit. The issue of whether the pier encroaches into Macaux/Witter's riparian zone will be left open until the circuit court resolves the property line dispute. The record contains uncontroverted testimony that if the property line dispute is resolved in favor of Macaux/Witter, the apportionment of the line of navigation method is the appropriate method of allocating riparian rights and that Exhibit 35 is an accurate determination of the riparian zone for the site. If the property dispute is resolved in the Lundys' favor, a new riparian zone determination will need to be made; however, it appears that if either the apportionment of the line of navigation method or the coterminus riparian rights line method is used, the Lundy pier will not be in the Macaux/Witter riparian zone. The shorestation may or may not be in the Macaux/Witter riparian zone depending on where along the pier it is placed.²

The Lundys did not attempt to present any evidence that their pier does not negatively impact public rights, other than testimony that fish can be found under the Lundy pier and general testimony from other property owners that the Lundy property is attractive. The tone of their and their witnesses' testimony is that the Lundys are well liked, good neighbors and their use of their pier is consistent with how other riparians on the Spread Eagle Chain of Lakes use their piers. However, no justification for a twenty-seven foot wide pier was presented. Even Paul Lundy admitted that his family could do everything they currently do on their current pier on a twelve-foot wide pier.

The Lundys' defense to the enforcement action was to put the Department on trial for failing to follow the mediation procedures set forth in the Spread Eagle Agreement and attack Ms. Witter's and Mr. Macaux's motives for filing a sec 30.14(2), Stats., complaint. The Lundys

² Even if it is determined that the Lundy pier is located entirely within the Lundys' riparian zone, the Lundys should be aware that their pier and shorestation must be located to comply with sec NR 326.07(3), Wis Adm. Code

argue that if the Department had followed the procedure set forth in the agreement, this dispute would have been resolved without a hearing. This is speculation and contrary to the Department's explanation of why the procedure was not followed.

It is not clear why the Department abandoned the agreement. All the evidence in the record about the reasons the Department failed to follow the agreement is hearsay. However, as stated above, the Department's investigation in this matter was in response to the Macaux/Witter complaint; therefore, the provisions Spread Eagle Agreement are immaterial. Once the complaint was filed, regardless of Ms. Witter's and Mr. Macaux's motives, the Department was simply fulfilling its duties pursuant to Ch. 30, Stats. Regardless of Ms. Witter's and Mr. Macaux's motives or any improper activity on the part of Department employees, the fact remains that the Lundy pier is too large to be maintained without a permit.

The Lundys also challenge the Department employees' use of the Pier Planner brochure and reasonable use guidelines. The Lundys allege that the Department is citing the guidelines as law. The Lundys offered evidence that indicates that in at least some situations this did occur (e.g. exh. 78, not admitted to the record as immaterial). Hopefully, the experience of the instant hearing, if it accomplishes nothing else, will result in Department employees being more careful in citing the reasonable use guidelines and Pier Planner. On the other hand, it must also be noted that the Court of Appeals has held that the reasonable use guidelines are entitled to some deference.

The DNR's informal guidelines reconcile the common law "reasonable use" doctrine with the statutory limitations on a riparian owner's right to the use of a navigable water. Both presume "reasonable use" by riparians, but allow for variations based on value and policy considerations. Even though the DNR's guidelines do not have the force and effect of law and are not controlling on the courts, the guidelines illustrate the DNR's experience and expertise in regulating piers under § 30.12, STATS. When an agency has particular competence or expertise on an issue, we will sustain its legal conclusions if they are reasonable. (citation omitted)

Sterlingworth Condominium Ass'n v. DNR, 205 Wis.2d 710, at 731-32, 556 N.W.2d 791 (Ct.App. 1996)

In summary, the Lundys attempted to paint a picture of a neighborly relationship gone sour and argued that the Department was used by Ms. Witter and Mr. Macaux to cause problems for them. However, the bottom line is the Lundys' pier is excessive and may be partially located within the Macaux/Witter riparian zone and there has been no effort by the Lundys to bring the pier into compliance with sec. 30.13, Stats., or apply for a permit pursuant to sec. 30.12, Stats.

CONCLUSIONS OF LAW

1. Paul and Cathy Lundy are owners of land riparian to East Lake. East Lake is a navigable body of water.

2. The Lundy pier, shorestation and swim raft described in the Findings of Fact constitute structures within the meaning of sec. 30.12, Stats.

3. For the reasons set forth in the Findings of Fact the Lundy pier does not satisfy the conditions set forth at sec. 30.13(1), Stats., by which a riparian owner may construct a pier in a navigable waterway without a permit. The pier was constructed and maintained without a permit. Accordingly, the construction and maintenance of the piers constitutes a violation of secs. 30.12 and 30.13, Stats., and constitutes a public nuisance pursuant to sec. 30.294, Stats.

4. The Department did not satisfy its burden of proof that the swim raft has been maintained in violation of sec. 30.13, Stats. Based on the evidence in the record no permit pursuant to sec. 30.12, Stats., is required for the swim raft.

5. The Lundy shorestation does not require a permit if it is located or relocated to a site within the Lundy's riparian zone and in compliance with sec. NR 326.07(3), Wis. Adm. Code.

6. Pursuant to secs. 30.02, 30.14(2) and 227.43(1)(b), Stats., the Division of Hearings and Appeals has the authority to issue the following order.

ORDER

1. The enforcement action relative to the swim raft is dismissed.

2. The Lundy pier in its present size and configuration requires a permit. No permit has been applied for or issued. Pursuant to the motion of the Department, the pier structure constructed and maintained by the Lundys is found to be a violation of sec. 30.12, Stats., and is declared an unlawful obstruction pursuant to sec. 30.13(4)(a), Stats., and a public nuisance pursuant to sec. 30.294, Stats. The pier shall be removed or reduced in size to comply with the requirements of sec. 30.13(1), Stats., within ninety days of this order unless a permit pursuant to sec. 30.12(2), Stats., is issued for the structure. The pier may also be located partially within the Macaux/Witter riparian zone, if so, it also violates sec. 30.13(1)(b), Stats., because it interferes with the rights of other riparians and may need to be relocated. This can not be determined until the property line dispute is resolved by the Circuit Court.

3. No permit is required for the Lundy shorestation as long as it is located or relocated, depending upon the Circuit Court determination, to a site within the Lundys' riparian

zone. If necessary the Lundys shall move the shorestation to comply with sec. NR 326.07(3),
Wis. Adm. Code.

Dated at Madison, Wisconsin on June 4, 1998.

STATE OF WISCONSIN
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By: Mark Kaiser
MARK J. KAISER
ADMINISTRATIVE LAW JUDGE

NOTICE

Set out below is a list of alternative methods available to persons who may desire to obtain review of the attached decision of the Administrative Law Judge. This notice is provided to insure compliance with sec. 227.48, Stats., and sets out the rights of any party to this proceeding to petition for rehearing and administrative or judicial review of an adverse decision.

1. Any party to this proceeding adversely affected by the decision attached hereto has the right within twenty (20) days after entry of the decision, to petition the secretary of the Department of Natural Resources for review of the decision as provided by Wisconsin Administrative Code NR 2.20. A petition for review under this section is not a prerequisite for judicial review under secs. 227.52 and 227.53, Stats.

2. Any person aggrieved by the attached order may within twenty (20) days after service of such order or decision file with the Department of Natural Resources a written petition for rehearing pursuant to sec. 227.49, Stats. Rehearing may only be granted for those reasons set out in sec. 227.49(3), Stats. A petition under this section is not a prerequisite for judicial review under secs. 227.52 and 227.53, Stats.

3. Any person aggrieved by the attached decision which adversely affects the substantial interests of such person by action or inaction, affirmative or negative in form is entitled to judicial review by filing a petition therefor in accordance with the provisions of sec. 227.52 and 227.53, Stats. Said petition must be filed within thirty (30) days after service of the agency decision sought to be reviewed. If a rehearing is requested as noted in paragraph (2) above, any party seeking judicial review shall serve and file a petition for review within thirty (30) days after service of the order disposing of the rehearing application or within thirty (30) days after final disposition by operation of law. Since the decision of the Administrative Law Judge in the attached order is by law a decision of the Department of Natural Resources, any petition for judicial review shall name the Department of Natural Resources as the respondent. Persons desiring to file for judicial review are advised to closely examine all provisions of secs. 227.52 and 227.53, Stats., to insure strict compliance with all its requirements.